IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
TAX APPEAL NO. (IT) 178 OF 2002

The Commissioner of Income-tax-I
Praptikar Sadan Annexe,
60/61, Erandwana, Karve Road,
,Pune. ...Appellant.

V/s.

Rajneesh Foundation
(Neo Sannyas Foundation)
17, Koregaon Park,
Pune 411 001 ...Respondent.

Dr.P.Daniel with Mr.G.Hariharan for the Appellants.
Mr.S.N.Inamdar for the Respondent.

CORAM: DR. S.RADHAKRISHNAN &
J.H.BHATIA, JJ.
DATE : 26th July, 2005.

JUDGMENT: (Per J.H.Bhatia,J.)

1. Being aggrieved by the dismissal of its Appeal No.ITA188/(PN)/1995 by the order dated 19th October, 2001 by the Income Tax Appellate Tribunal, the Petitioner has preferred the present Appeal under section 260A of the Income Tax Act.

2. Though the Revenue has sought to raise several questions of law, the Appeal has been admitted only on the following substantial questions of law:

"Whether on the facts and in the

circumstances of the case, the ITAT was right in holding that the assessee is entitled to exemption u/s.11 of the Income Tax Act, 1961?"

3. Facts leading to this Appeal may be briefly stated thus,

The Respondent is a trust registered under Bombay Public Trusts Act. Earlier it was known as Rajneesh Foundation. However, after amendment in the trust deed, it came to be known as Neo Sannyas Foundation. The Respondent filed returns of income for the assessment year 1991-92 showing certain income and claimed exemption from income tax under section 11 of the Income Tax Act. The The Assessing Officer rejected the claim on the ground that similar claim of the Trust was rejected earlier for the Assessment Year 1975-76 and the Assessment Year 1976-77 on the grounds that Trust was not for educational or religious purposes and the activity of the publication of books was intended for profit. For the assessment year 1976-77, it was observed that as long as

Acharya Rajneesh was alive, one could not predict what he would preach and hence, the object of the Trust could not be said to be charitable and secondly, affairs of the Trust were dominated by the single person Acharya Rajneesh and the object of the trust was to preach and propagate philosophy of Acharya Rajneesh and perpetuate image of Acharya Rajneesh whose vague and contradictory views were not only not charitable but harmful to the public interest. The Assessing Officer noted that even though after rejection of the claim for the assessment year 1975-76 and 1976-77, the trust deed was amended virtually it remained the same. Order passed by the Assessing Officer was challenged before the Commissioner of Income Tax (Appeals) and by the Respondent contending that there were distinct differences in the circumstances prevailing during the assessment years 1975-76 and 1976-77 and the assessment year 1991-92. In view of the amendment in the trust deed, Appeal was allowed and the Respondent was held entitled to exemption under section 11. Revenue challenged that order before Income Tax Appellate Tribunal.

In view of the difference of opinion between the Accountant member and the Judicial member, the matter was referred to third member who agreed with the views of the Accountant member and in the result, Appeal of the Revenue came to be dismissed. In the present Appeal, the Revenue has challenged the findings of the Income Tax Appellate Tribunal on several grounds.

4. Heard the learned counsels for both the parties.

5. Dr.Daniel, the learned counsel for the Revenue vehemently contended that the claim of the Respondent for exemption under section 11 for the assessment years 1975-76 and 1976-77 was rejected by giving very cogent reasons by the Tribunal and the circumstances have not changed in spite of amendment in the trust deed carried in the year 1989. He contended that the said trust was established with the predominant object of preaching and propagating philosophy of Acharya Rajneesh, who was controversial, and certainly not for the benefit of the society in general. He also contended that the predominant object of the trust was not charitable but to make income as

all the services rendered by the trust were for price. Books were published and sold and income was earned. The trust was trying to project and perpetuate image of the Acharya Rajneesh. According to him, unless the object is wholly charitable, as held by the Supreme Court in **Surat Art Silk Clothes Manufacturers Association 121 ITR,** the Trust could not be entitled to exemption under section 11.

6. On the other hand, Mr.Inamdar, the learned counsel for the Respondent vehemently contended that there are material changes in the situation and structure of the Trust after the amendment in the year 1989 and the primary object of the trust is to spread and impart preaching of the philosophers, thinkers and scholars, both past and contemporary, including Acharya Rajneesh, pertaining to all the religions and/or main principles thereof for the mental, spiritual, moral and physical betterment of human-beings with the ultimate object of self-realization. He also contended that publication of books is no more undertaken by the Respondent Trust and it is handed over to another trust which separately pays Income-tax. He also strongly placed reliance upon **Surat Art Silk Cloth Manufacturers Association and the Commissioner of Income Tax v. Ahmedabad Rana Caste Association 88 ITR 354** and

contended that taking into consideration all the facts and circumstances, predominant object of the trust is charitable, and therefore, even if it makes income, it is entitled to exemption. He contended that the very provision for exemption supports the view that the trust may make income and it may be exempted from income-tax.

7. The learned counsels have taken us through the order passed by the Assessing officer, Commissioner of Income Tax (Appeals) and the individual judgments of all the three members of the Income Tax Appellate Tribunal as well as relevant provisions of the trust deed before as well as after the amendment. The Commissioner (Appeals) as well as the members of the Income Tax Appellate Tribunal have extensively considered the reasons given by the Assessing Officer rejecting the claim of the exemption made by the Respondent . It would be useful to refer to the important objects and clauses in the trust deed. First and foremost objection against grant of exemption was that as per clause 5A of the original trust deed, the object was " to spread and impart preaching of Acharya Rajneeshji and other philosophers pertaining to all religions and/or main principles thereof and/or morals. In the matters pertaining to the assessment years

1975-76 and 1976-77, the Appellate Tribunal had noted that Acharya Rajneesh being a living person, it could not be predicted as to what he would preach in his future life and thus, there would be no finality to his preaching. It was opined by the Appellate Tribunal that the object was only to preach and propagate the philosophy of Acharya Rajneesh and thus, to project his personality. In view of this objection, the Respondent proposed to redraft the said clause 5A and to delete the name of Acharya Rajneesh completely. However, the Deputy Charity Commissioner did not agree to deletion of the name of Acharya Rajneesh. And therefore, finally clause 5A was amended so as to read as under:

> "to spread and impart preaching of philosophers, thinkers and scholars both past and contemporary (including Acharya Rajneesh) pertaining to all religions, and/or main principles thereof for spiritual, mental and/or moral and physical betterment of human beings with the ultimate object of self realization".

8. As per the original clause 2 Acharya Rajneesh was to be a adviser of the Trust for life and as an

adviser he was to have powers mentioned thereafter in the trust deed. Thus he had all the powers of the management which were otherwise to be vested in the trust. The said clause 2 as well as clause 12 nominating Acharya Rajneesh as an adviser for life were deleted by the amendment. Clause 11 of the original trust deed provided that management of the property and other business of the Trust shall be carried out by the Board of Trustees, of not less than 2 and not more than 11 members of which 5 members would be nominated by Acharya Rajneesh. This gave de-facto control to Acharya Rajneesh over all the activities of the Trust . This clause was amended so that the management of the property and other business of the trust shall be carried out by Board of Trustees of not less than 2 and not more than 6 members. The power given to Acharya Rajneesh as per original clause 11 to nominate five members was also deleted.

9. As per original clause 28, Acharya Rajneesh was to guide and advise on the disputes regarding administration of trust. This clause was suitably amended so that all the disputes arising in the administration of trust and all questions relating to interpretation of the trust deed, etc. shall be decided as per the wishes of the majority of the

trustees. In view of these material amendments, it could be no more said that Acharya Rajneesh alone was controlling whole of the trust as well the trustees. It may be pointed out that when the amendments were made in the trust deed, Acharya Rajneesh was alive. At that time, the constitution of the trust was so changed that neither Acharya Rajneesh could nominate any trustee nor he could be adviser to the trustees for lifetime nor he alone could settle the disputes. Thus, the provisions of the original trust deed which vested absolute powers in Acharya Rajneesh were withdrawn and all those powers are now vested in the trustees. Here it is material to note that Acharya Rajneesh took Samadhi in the month of January, 1990 and thereafter he was no more around to take any decision or to control the activities of the trust. As such, the objections to grant exemptions which were valid prior to the said amendment, were no more available for the Assessment Year 1991-92. Thus, the administration of property and activities of the trust were being carried on by the trustees during the relevant assessment year 1991-92.

10. The contention of the Revenue in the matters pertaining to the assessment years 1975-76 and 1976-77 that Acharya Rajneesh being a living person, it could not be predicted as to what he would preach in his

future life, is also no more available. By virtue of amendment, the object of the Trust is to spread and impart preaching of the philosophers, thinkers and scholars both past and contemporary including Acharya Rajneesh. Acharya Rajneesh is no more alive. Therefore, now it cannot be said that it was unpredictable as to what he would preach. During his lifetime, he had delivered discourses and speeches to propagate and preach his philosophy. He is credited to have written 650 books on different subjects mainly pertaining to the spirituality and meditation. His speeches and discourses are also recorded. Thus, his thoughts and philosophy are now recorded in the form of books and other material.

11. In the proceedings for the assessment years 1975-76 and 1976-77 , the Appellate Tribunal had noted that philosophy and teachings of Acharya Rajneesh were not of general public utility and infact were controversial. Same line was adopted by the Assessing Officer for the relevant Assessment Year and by the Commissioner of Income Tax in his report dated 8.10.93 to the Director General (Exemption) and in respect with application under section 10 (23C) (v). He actually contended that the trust did not fulfil the conditions laid down in Section 2(15) of the Income Tax Act as it

is not for the relief of the poor, education, medical reliefs and advancement of any other object of general public utility because it was involved in carrying on activities for profit. Further he observed that whatever amount was spent was for providing amenities to the persons attending the rituals and large investment was made in the purchase of movable and immovable assets. He noted that this Trust is like a health club where course has been prescribed for removing stress and strain and therefore, it could be said to be health club in the modern sense and nothing more. He also observed that even removing the stress by charging a lot of payment does not amount to advancement of any other object of general public utility and, therefore, the objects of the trust were not charitable. It appears that on the basis of this report, application for exemption under section 10(23C)(v) came to be rejected by letter dated 3.10.96.

12. The Commissioner of Income Tax (Appeals) as well as two of the three members of the Appellate Tribunal have rightly observed that the perception of the people towards the preaching of the philosophy of Acharya Rajneesh has undergone sea change during the last few years. While earlier, he was supposed to be controversial personality and most of the people of

this country were averse to his thinking and preaching, during last few years his teachings and philosophy have become more acceptable to the society. About 650 books written by Acharya Rajneesh have been widely studied and translated in many European and Asian and Indian languages. He wrote on diverse subjects like Vedanta, Geeta (Geeta Darshan), Sant Kabeer (Kahe Kabeer Diwana), Guru Nanak (Ek Omkar Satnam) which is commentary on the Sikh scripture known as "Japuji", hailed as best commentary by Gyani Zailsingh, former President of India. The complete Osho literature was accepted in the parliament library and Mr.Shivraj Patil , the then Speaker of Loksabha, who received the literature from the trust, termed the literature as "original creation". He observed that essence contained in all the volumes is that one should find peace in one self, only then can peace be attained in the society and in the entire universe.

13. Not only Acharya Rajneesh is being studied by number of universities abroad but several students have also prosecuted higher studies in the philosophy of Acharya Rajneesh in the Jawaharlal University, Patna University, North Gujarat University, Banaras Hindu University for Ph.D. Rani Durgawati University, Jabalpur has established an Osho Chair with the

financial support of the Government of Madhya Pradesh for the study of his philosophy. In response to the letter dated 28.3.01 from the Deputy Commissioner of Income Tax (Headquarter) to the Respondent seeking certain clarifications for the purpose of application for exemption under section 80G, the Respondent gave the details about its activities in the explanation dated 9th April, 2001. It was pointed out that some of the important purposes and objects of the trust are, besides to spread and impart preaching of the philosophers, to conduct and arrange seminars, tours, shibirs, research and other programmes, to start, promote and conduct Gyan Yagna, Sadhana centres, seminars, discourses, study groups, to give loans, freeships, scholarships, prizes, monetary assistance to carry out research and preach philosophy, to impart medical knowledge by way of Sadhana and other suitable systems beneficial to physical and mental health. It was pointed out that the main and fundamental activity of the trust is meditation which is gaining momentum and popularity in the country. It is pointed out that Acharya Rajneesh had developed several techniques of meditation for improvement of mind and body. Over the ages, meditation has been the bed-rock of the Indian philosophy. Important religions like Hinduism, Buddhism, Jainism have emphasised the importance of

meditation as a means towards attainment of eternal piece. The Respondent contended that the trust activities are for the benefit of general public at large with its fundamental charitable object to develop human mind, body and soul with a view to achieve physical, mental and spiritual well-being with the ultimate aim of achieving self-consciousness. With these objects, the Respondent claims to have opened 250 centres around the country. Swami Satya Vedant and many other disciples of Acharya Rajneesh conduct seminars and meditation camps all over India for the benefit of people without any remuneration. It is contended that the activities of the Respondent are for the benefit of human-beings and not for the profit.

14. Whatever might be the perception of people about Acharya Rajneesh and his teachings in the earlier phase, it must be accepted that in view of the developments pointed out above, the philosophy and teaching of Acharya Rajneesh have become more acceptable to the people during the last few years. Admittedly, main thrust of the Respondent is on meditation and nobody can dispute that in India meditation has been very important source for physical, mental and spiritual well-being of the humanbeings. Cognizance has to be taken that the meditation and Yoga

are becoming more and more popular among the Indians who are now becoming conscious about their physical, mental and spiritual health. Not only in India, meditation and Yoga are being accepted in the Western Countries also as a great source for physical and mental health and spiritual attainment. When a large number of people feel that meditation is a great source for physical, mental and spiritual well-being, it must be held to be an activity for the advancement of general public utility.

15. As defined by Section 2(15), charitable purpose includes relief of poor, education, medical reliefs and advancements of **any other object of general public utility**. Admittedly, the Respondent does not claim to provide relief to the poor, education or medical relief. It claims that the objects and activities of the trust are for the advancement of other objects of the general public utility like attainment of physical, mental and spiritual health and thus, realisation of self-consciousness.

16. Words **"advancement of any other object of general public utility"** have been subject of discussion and adjudication in several cases. In **Commissioner of Income Tax, Gujarat v. Ahmedabad Rana Caste**

Association (1973) 88 ITR 354. The trust was constituted to manage movable and immovable properties of the Rana Community of the city at Ahmedabad to spread education, to render medical assistance to the community to do acts which would be useful to the community and to do all acts which promote unity and brotherhood among the members of the community and bring about complete development of all aspects of life of male and female members of the community. Management was to be carried as profitable as possible in the interest of the community and to provide for certain Havans, Bhandaro, etc. After having considered difference in English and Indian Law on the subject as well as the objects of the said trust, Gujarat High Court observed as follows:

> "Sub-clause (5) of clause 3 consists of two parts. The first part sets out the object of doing acts which would promote unity and brotherhood amongst the members of the community. Now there can be no doubt that if there is strife and disharmony amongst the members of a community, that would seriously affect the happiness and well-being of the

community. The community can flourish as a community only if its members are living in peace and harmony with one another and there is a deep and abiding sense of unity and fraternity amongst them. That alone can secure to them the benefit of a healthy communal life. It is, therefore, clear that a purpose calculated to promote unity and brotherhood amongst the members of a community would normally be a purpose beneficial to the community and the purpose set out in the first part of subclause (5) of clause 3 must be held to be within the statutory definition. Turning to the second part of subclause (5) of clause 3, the purpose there set out is to do all acts which bring about complete development of all aspects of life of the male and female members of the community. It is difficult to see how, having regard to modern concepts and ideas, complete development of all aspects of life of each member of

> the community can be regarded as anything other than an object of general public utility. It is axiomatic to say that a complete integrated development of every member of the community would certainly be beneficial to the community. The community is after all nothing but a conglomeration of the members and a purpose which is calculated to bring about complete development of all aspects of life of every member of the community would certainly be of immense benefit to the community.

With these observations, Gujarat High Court upheld the decision of the Appellate Tribunal granting exemption to the Trust under section 11 (1)(a). The Appeal against this judgment was also dismissed by the Supreme Court in **Commissioner of Income Tax v. Ahmedabad Rana Caste Association (1983) 140 ITR 1.**

17. In **Additional Commissioner of Income Tax, Gujarat v. Surat Art Silk Cloth Manufacturers**

Association (1980) 121 ITR 1, the objects of the Association were "(a) to promote commerce and trade in art silk yarn, raw silk, cotton yarn, art silk cloth, silk cloth and cotton cloth: (b) to carry on all and any of the business of art silk yarn, raw silk, cotton yarn as well as art silk cloth, silk cloth and cotton cloth, belonging to and on behalf of its members; (c) to obtain import licences for import of art silk yarn, raw silk, cotton yarn, and other raw materials as well as accessories required by its members for the manufacture of art silk, silk and cotton fabrics; (d) to obtain export licences and export cloth manufactured by the members; (e) to buy and sell and deal in all kinds of cloth and other goods and fabrics belonging to and on behalf of the members;..... (n) to do all other lawful things as are incidental or conducive to the attainment of the above objects". The income and property of the Association were liable to be applied solely and exclusively for the promotion and the objects set out in the memorandum and no part of such income or property could be distributed among the members. It is material to note that before the amendment of Finance Act, 1983 w.e.f. 1.4.84, the definition of Charitable Purpose was thus,

"Charitable purpose includes relief

> to poor, education, medical relief and advancement of any other object of general public utility **not involving the carrying on of any activity for profit**".

Words **"not involving carrying on of any activity for profit"** were omitted w.e.f. 1.4.84. With reference to these words, Their Lordships of the Supreme Court in **Surat Art Silk Cloth Manufacturers Association** observed as follows:

> "The test which has, therefore, now to be applied is whether the predominant object of the activity involved in carrying out the object of general public utility is to subserve the charitable purpose or to earn profit. Where profit-making is the predominant object of the activity, the purpose, though an object of general public utility, would cease to be a charitable purpose. But where the predominant object of the activity is to carry out the charitable purpose and not to

earn profit, it would not lose its character of a charitable purpose merely because some profit arises from the activity. The exclusionary clause does not require that the activity must be carried on in such a manner that it does not result in any profit. It would indeed be difficult for persons in charge of a trust or institution to so carry on the activity that the expenditure balances the income and there is no resulting profit. That would not only be difficult of practical realisation but would also reflect unsound principle of management. We, therefore, agree with Beg J. when he said in Sole Trustee, Loka Sikhshana Trust's case (1975) 101 ITR 234, 256 (SC) that:

"If the profits must necessarily feed a charitable purpose under the terms of the trust, the mere fact that the activities of the trust yield profit will not alter the charitable

> character of the trust. The test now is, more clearly than in the past, the genuineness of the purpose tested by the obligation created to spend the money exclusively or essentially on charity."
>
> The learned judge also added that the restrictive condition "that the purpose should not involve the carrying on of any activity for profit would be satisfied if **profit-making is not the real object,** (emphasis supplied). We wholly endorse these observations".

Their Lordships further observed as follows:

> "The application of this test may be illustrated by taking a simple example. Suppose the Gandhi Peace Foundation which has been established for propagation of Gandhian thought and philosophy which would admittedly be an object of general public utility, undertakes publication of a

> monthly journal for the purpose of carrying out this charitable object and charges a small price which is more than the cost of the publication and leaves a little profit, would it deprive the Gandhi Peace Foundation of its charitable character? The pricing of the monthly journal would undoubtedly be made in such a manner that it leaves some profit for the Gandhi Peace Foundation, as, indeed, would be done by any prudent and wise management, but that cannot have the effect of polluting the charitable character of the purpose, because the predominant object of the activity of publication of the monthly journal would be to carry out the charitable purpose by propagating Gandhian thought and philosophy and not to make profit or, in other words, profit-making would not be the driving force behind this activity."

Their Lordships dismissed the Appeal of Revenue against the order of the Appellate Tribunal granting exemption

from income-tax to the Respondents.

18. It is material to note that after the amendment w.e.f. 1.4.84, even the words **"not involving carrying on of any activity for profit"** are omitted. Therefore, even if some activity of the Trust is for profit but the predominant purpose of the trust is charitable , it does not lose its character, merely because it is making some profit. Mr.Inamdar rightly contended that the exemption from income-tax granted under section 11 itself stipulates that the trust may make some income by its activity; however, the legislature wanted to exempt such income from income-tax if it is being used for charitable purposes.

19. In the present case, it was contended that the books were being printed, published and sold for the price and it was activity for profit. Infact, this argument could be rejected if the income was used for charitable purposes. It is material to note that by making amendment in the trust deed , the object of printing, publishing and sale of goods has been deleted and admittedly that activity was taken over by another trust which pays Income-tax as per the rules. It is contended that for the meditation and other activities also the Respondent is charging certain fees from the

people who want to take lessons or training in the meditation. We have carefully gone through the accounts showing income and expenditure of the trust during the relevant period. It appears that the main income is from the charges taken for meditation. Charges are also taken for providing food. The expenditure is also mainly on the meditation, food and for providing facilities in the centre Whatever income is made by the Respondent, it is spent for the activities of the trust. No part of the income is distributed among the trustees or any other beneficiaries. As we have already held that the meditation and even preaching and propagation of the philosophy is an activity for the general public utility, if the Respondent collects certain fees or charges and that amount is ploughed back for carrying on activities of the trust and not for distribution of income among the trustees or any other beneficiaries, it can claim exemption from the tax. This finds support from **Additional Commissioner of Income-tax, Delhi-III v. Hamdard Dawakhana (WAKF) (1986) 157 ITR 639** and the **Commissioner of Sales Tax v. Sai Publication Fund (2002) 258 ITR 70.** In the matter of Hamdard Dawakhana, medicines are prepared and sold. However, its income goes for charity. In the matter of Sai Publication, books and literatures to propagate the

teachings of Shirdi Saibaba were sold. It was held that the Respondents were not carrying on business and was not a dealer within the meaning of Bombay Sales Tax Act because the purpose was charitable.

20. It is material to note that in 1989, the Respondent filed an application under section 12A for registration for the purpose of exemption under section 11. The Commissioner Income Tax (Appeals) observed that as the application was made in due course , it was likely to be registered and therefore, exemption could be granted. The Appellate Tribunal noted that infact the registration was granted after the amendment of 1997 when section 12AA was incorporated. The section 12AA requires the Commissioner to make necessary investigation after calling such documents and information from the trust as may be required and only after satisfying himself about the objects of the trust and the genuineness of its activities, he shall pass an order for registration of the Trust. The Appellate Tribunal observed that when in the pending applications, the procedure laid down in Section 12AA was to be followed and as the Commissioner after following that procedure had actually granted registration, it must be held that the Respondent is a trust with charitable purposes. Therefore, the

Appellate Tribunal observed that it was a strong ground in support of the Respondent. We are in full agreement with the Appellate Tribunal on this point.

21. It is material to note that the Respondent had also requested the Government to grant benefit of deduction under section 80G of the Income Tax Act for the donations made to the Respondent by the donors. On that request, necessary inquiry was made by the Commissioner of Income Tax and after getting detailed reply and clarification as per the letter dated 9th April, 2001 from the Respondent, the Commissioner of Income Tax issued an order under Rule 11AA dated 22.7.03 whereby the donations made to the Respondent are made allowable for the benefit of deduction under section 80G of the Income Tax Act in the hands of the donors for the period from 1.4.01 to 31.3.04. Again same benefit was continued by an order dated 17.9.04 w.e.f. 1.4.04 to 31.3.07. It means the donors, who make donations to the Respondent Trust, are also entitled to get benefit of deduction of the said donation from their income as per the provisions of Section 80G for the purpose of income-tax. It clearly shows that the Government is fully satisfied that the activities of the Respondent are for charitable purposes, and therefore, not only the Respondent is

registered under section 12A as the charitable trust and entitled to benefit of exemption under section 11, even the donors are also given the benefit under section 80G. Changes in the Respondent Trust took place with the amendment in 1989. The relevant assessment year 1991-92 is of the period after the said amendment. If on the basis of said trust deed, the Government could give exemption under section 11 as also under section 80G by the subsequent orders, the Commissioner of Income Tax (Appeals) and the Income Tax Appellate Tribunal were fully justified in holding that the Respondent is entitled to get exemption under section 11 for the relevant Assessment Year.

22. In view of the above circumstances, we find that the objects of the Respondent are charitable within the meaning of section 2(15) and the Income Tax Appellate Tribunal was right in holding that the Respondent is entitled to exemption under section 11 of the Income Tax Act. In the result, we answer substantial question of law in affirmative and the Appeal stands dismissed. No order as to costs.

(DR.S.RADHAKRISHNAN,J.)

(J.H.BHATIA, J.)

It is material to note that the Respondent had also requested the Government to grant benefit of deduction under section 80G of the Income Tax Act for the donations made to the Respondent by the donors. On that request, necessary inquiry was made by the Commissioner of Income Tax and after getting detailed reply and clarification as per the letter dated 9th April, 2001 from the Respondent, the Commissioner of Income Tax issued an order under Rule 11AA dated 22.7.03 whereby the donations made to the Respondent are made allowable for the benefit of deduction under section 80G of the Income Tax Act in the hands of the donors for the period from 1.4.01 to 31.3.04. Again same benefit was continued by an order dated 17.9.04 w.e.f. 1.4.04 to 31.3.07. It means the donors, who make donations to the Respondent Trust, are also entitled to get benefit of deduction of the said donation from their income as per the provisions of Section 80G for the purpose of income-tax. It clearly shows that the Government is fully satisfied that the activities of the Respondent are for charitable purposes. And therefore, not only the Respondent is registered under section 12A as the charitable trust and entitled to benefit of exemption under section 11, even the donors are also given the benefit under section 80G. Changes in the Respondent Trust took place with the amendment in 1989. The relevant assessment year 1991-92 is of the period after the said amendment. If on the basis of said trust deed, the Government

would give exemption under section 11 as also under section 80G by the subsequent orders, the Commissioner of Income Tax (Appeals) and the Income Tax Appellate Tribunal were fully justified in holding that the Respondent is entitled to get exemption under section 11, for the relevant Assessment Year.